

**CALENDAR ITEM
C29**

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02/07/17
PRC 8740.1
J. Holt

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Gregory Evan Daniel

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Goodyear Slough, adjacent to Solano County Assessor's Parcel Number 0090-240-030, near the city of Benicia, Solano County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock with two berths, six pilings, and ramp.

LEASE TERM:

10 years, beginning February 15, 2017.

CONSIDERATION:

\$454 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On February 5, 2007, the Commission authorized a General Lease – Recreational Use to Gregory Evan Daniel and Wendy Jean Daniel, for a boat dock and appurtenant facilities in Goodyear Slough ([Calendar Item C31, February 5, 2007](#)). The property transferred to Gregory Evan Daniel

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on January 12, 2017. The current lease expires on February 14, 2017. The Applicant is now applying for a new lease.

The proposed lease contains the same facilities as the current lease which consists of an existing boat dock with two berths and appurtenant facilities used for the mooring of boats. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, §6503.5). The Applicant owns the upland adjoining the lease premises. The subject structures are privately owned and maintained.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision.

The boat dock and appurtenant facilities have existed for many years at this location; the facilities do not significantly alter the land; the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the dock and appurtenant facilities will not substantially interfere with Public Trust needs, at this location at this time, and for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located within Goodyear Slough, near Benicia, a tidally-influenced site consisting of low-elevation drained former tidelands within the San Francisco Bay Delta. This area is vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise.

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The lease premises consist of a fixed ramp; six pilings; and an uncovered floating boat dock with two berths. The existing facilities are in good condition. The fixed and moving components of the dock and appurtenant facilities could be susceptible to damage from rising seas and flooding events.

The risk of flood exposure for the lease premises is likely to increase with time. The region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, draught, extreme heat, and storms (especially when coupled with sea level rise). In tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run-up, potentially resulting in greater bank erosion than previously experienced. Finally, in tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. The uncovered floating dock is adaptable to variable water levels, but may require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons. The fixed ramp and pilings may need reinforcement to withstand higher levels of flood exposure. In addition, the ramp and adjacent upland and associated walkway may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard. Finally, the vegetated bank protection is at risk of accelerated deterioration from higher and stronger currents and floods.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to effects of climate change, including sea-level rise.

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Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that this activity is except from the requirements of the California Environmental Quality Act (CEQA) as a categorical exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Gregory Evan Daniel, beginning February 15, 2017, for a term of 10 years, for the continued use and maintenance of an existing boat dock with two berths, six pilings, and ramp, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$454, with an annual Consumer Price Index adjustment, and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8740.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Goodyear Slough lying adjacent to Swamp and Overflow Survey 519 patented March 12, 1870, Solano County, State of California, more particularly described as follows:

All those lands underlying an existing two berth floating boat dock, six (6) pilings and ramp lying adjacent to Parcel "F" as described in Exhibit "A" that Grant Deed recorded August 15, 2002 in Document 2002-00102069 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the right bank of the Goodyear Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared December 5, 2016 by the California State Lands Commission Boundary Unit.



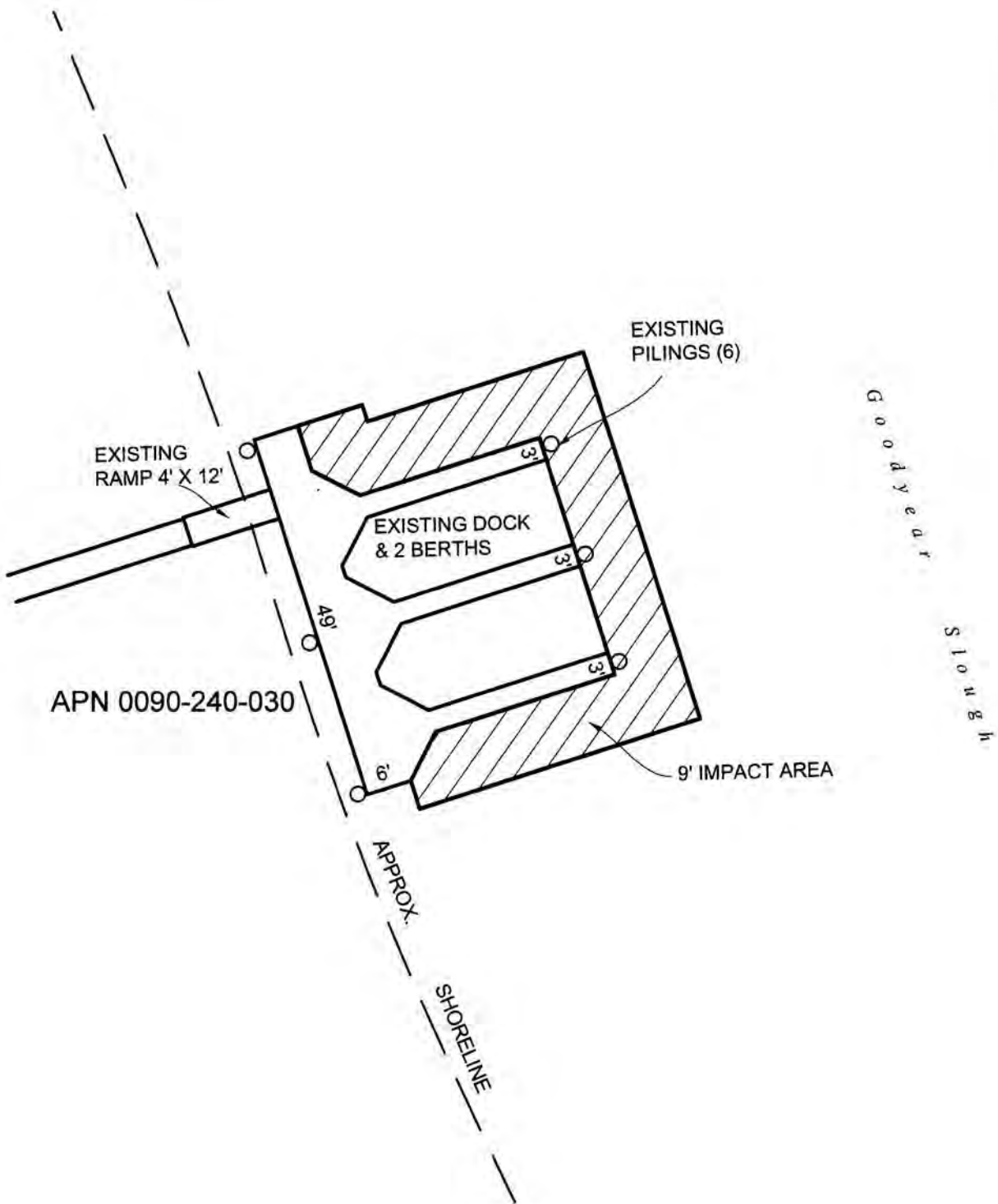


EXHIBIT A

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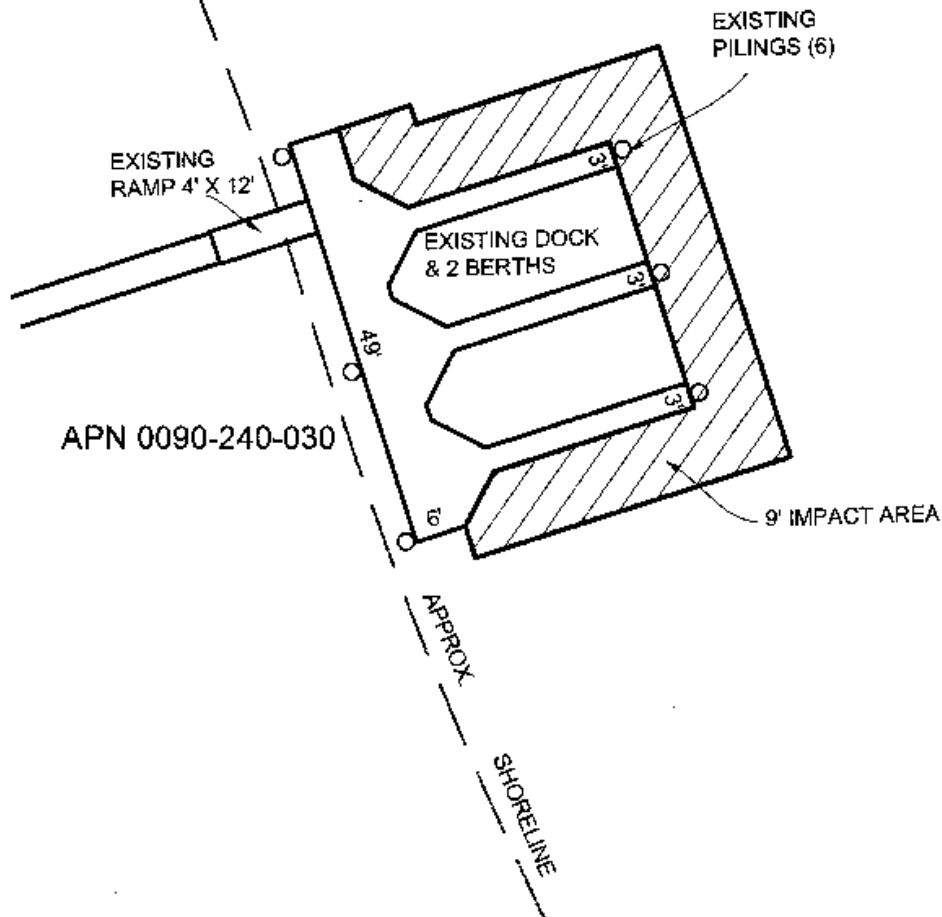
LAND DESCRIPTION PLAT
PRC 8740.1, DANIEL
SOLANO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

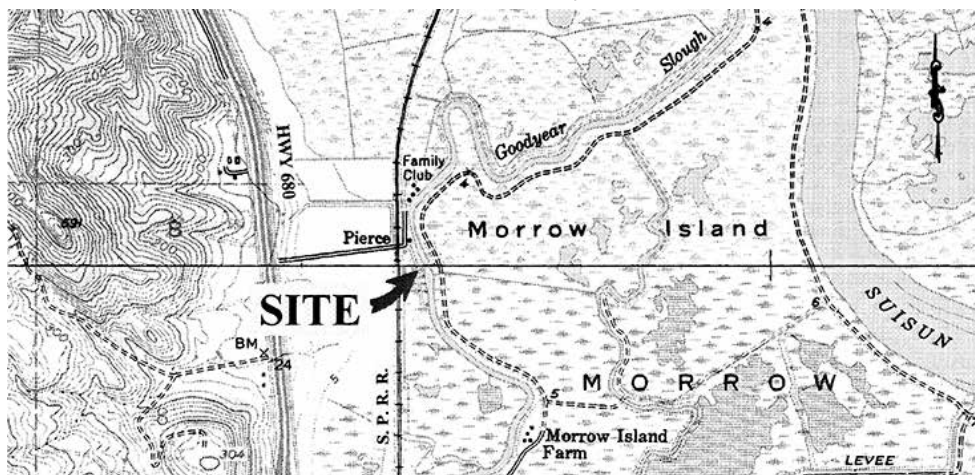
SITE



FRACTION OF SECTION 8, T 3 N, R 2 W, M.D.B.M., GOODYEAR SLOUGH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 8740.1

DANIEL

APN 0090-240-030

GENERAL LEASE -
RECREATIONAL USE
SOLANO COUNTY



MJJ 12/05/2016